

EXHIBIT H

Designation of Deposition Testimony of Mark Jacobs

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
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6 In re:) Case No. 13-53845
7 CITY OF DETROIT, MICHIGAN)
8) Chapter 9
9 Debtor)
10) Hon. Steven W. Rhodes
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13 The Deposition of MARK D. JACOBS,
14 Taken at 150 W. Jefferson, Suite 2500,
15 Detroit, Michigan,
16 Commencing at 3:29 p.m.,
17 Friday, July 11, 2014,
18 Before Melinda S. Moore, CSR-2258.
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1 willing to talk about a purchase of the Macomb
2 portion of the system; is that correct?

3 A. I'm not sure I understand the question.

4 Q. Okay. At some point -- I think you said it was
5 about 2005 or '06 you became aware Mr. Mercado
6 and Mr. Marrocco were talking about a Macomb
7 purchase of the system, correct?

8 A. That is correct.

9 Q. Okay. Was there a time or a date in which you
10 were officially brought into or involved in those
11 discussions?

12 A. I suppose I got involved in the Macomb discussions
13 sometime after Oakland County acquired the
14 Clinton-Oakland portion -- the Clinton-Oakland and
15 the Edison Corridor portion of the Oakland-Macomb
16 Interceptor District. Actually it was the
17 Oakland-Macomb Interceptor Drain Drainage District
18 that acquired the Oakland portion.

19 Q. Okay.

20 A. After that transaction closed, we shortly
21 thereafter commenced discussions on the Macomb
22 piece.

23 Q. Okay. When you said you commenced discussions,
24 who did you commence discussions with?

25 A. It was largely the same team of people that were

1 or can you recall what kinds of information they
2 requested and you provided?

3 A. The business terms of the transaction that were
4 agreed to between Tony Marrocco and Victor Mercado
5 was that the purchase price would be equal to the
6 outstanding principal balance on the bonds
7 allocated to the assets that comprise the Macomb
8 system. And it was that financial information
9 that Macomb County asked DWSD to provide.

10 Q. Okay. And did DWSD provide that information to
11 them?

12 A. They did.

13 Q. Okay. What time frame are we talking here?

14 A. I don't recall exactly when the Oakland-Macomb --
15 the Oakland system closed, but it was from within
16 months of that closing through the closing of the
17 Macomb transaction, which I think was
18 September 2010.

19 Q. We have an acquisition agreement signed
20 September 2, 2010. Is that --

21 A. That sounds correct.

22 Q. That sounds correct to you?

23 MR. ADDIS: Are we just continuing to
24 number the --

25 MR. WATSON: Yeah, I assume we will

1 By that I mean did somebody --

2 MR. ADDIS: Exhibit 6. I apologize.

3 BY MR. ADDIS:

4 Q. Negotiations take place. We've established that.

5 And then eventually an acquisition agreement is

6 put together and laid on paper. What I'm

7 interested in is the process of how this

8 acquisition agreement was written and approved.

9 By that -- let me ask the first question. Did
10 someone submit a first draft?

11 A. The first draft was the Oakland transactional
12 document, because with limited exceptions, other
13 than the purchase price, the Macomb acquisition
14 agreement mirrors the Oakland acquisition
15 agreement.

16 Q. And do we know who put together the Oakland
17 acquisition agreement?

18 A. It was the same group of parties.

19 Q. Okay. That would include you?

20 A. Me.

21 Q. Was Mr. Hupp involved in that?

22 A. Yes, he was.

23 Q. Okay. And Mr. Hupp represented who? Oakland?

24 A. The Oakland Macomb Interceptor Drain Drainage
25 District, I believe. I don't believe he was there.

1 for Oakland specifically.

2 Q. I understand. Okay. Anybody else in that
3 process?

4 A. Oakland may have had its other attorneys involved.
5 Oh, Joe Colaianne from the Water Resource
6 Commissioner's Office was a lawyer. John
7 McCulloch was involved. Those were the principal
8 players for Oakland County.

9 Q. Okay. By the time we got down to the signing
10 date of this acquisition agreement, did you ever
11 compare this acquisition agreement side by side
12 to the Oakland agreement?

13 A. Not that I recall.

14 Q. Okay. Do you know whether Mr. Hupp had done
15 that?

16 A. I would have no idea.

17 Q. Okay. Or Mr. Misterovich?

18 A. I wouldn't know.

19 Q. Okay. So it's fair to say that the Oakland
20 agreement as a model was used for this agreement?

21 A. To the best of my recollection, the only things
22 that were changed were the things that were
23 specific to Macomb County that were not specific
24 to Oakland County.

25 Q. Okay. Negotiations started in, we believe, '09,

1 questions the validity of this agreement."

2 Sir, at the time -- either prior to or
3 at the actual time of signing this, did anybody in
4 the room ask Mr. Latimer if he had any such
5 knowledge?

6 A. I don't believe anybody asked them that.

7 Q. As of the date of this signing, were you aware --
8 strike that.

9 Was Mr. Latimer the only DWSD employee
10 at that meeting?

11 A. At which meeting?

12 Q. At the signing itself.

13 A. I don't recall.

14 Q. Can you tell me which -- can you tell me whether
15 anybody within the City of Detroit other than
16 their counsel did a full review of this
17 acquisition agreement before signing?

18 A. I'm not sure who reviewed it.

19 Q. Did anybody ever communicate to you that they
20 reviewed it?

21 MR. FRANZINGER: Objection. You
22 shouldn't disclose any discussions you had with
23 your client.

24 THE WITNESS: I don't recall. My --
25 for what it's worth, I believe that this

1 acquisition had to be approved by the Detroit
2 Water Board, so there presumably was some review
3 at that level, but I want -- I didn't appear
4 before them. I don't know how they -- how or
5 where or when they addressed this.

6 BY MR. ADDIS:

7 Q. Okay. I want to take you to paragraph 5.3, sir,
8 Litigation and Claims. And this is on 14 of 25.
9 I'm sorry. I should have told you that first.
10 And, again, reading for the record, "Detroit
11 shall promptly inform the Macomb County and MID
12 in writing of any claims of which Detroit is or
13 becomes aware that are or might reasonably be
14 expected to become the subject of litigation
15 affecting the Macomb system or the transactions
16 contemplated by this agreement."

17 Now, sir, using that as a foundation,
18 did there come a time, sir, when you became aware
19 that DWSD employees were being questioned by the
20 FBI, a grand jury, or the U.S. Attorney's Office
21 regarding the practices of DWSD?

22 MR. FRANZINGER: Again, you should not
23 disclose any conversations that you had with the
24 client or that are based upon knowledge that you
25 had based on discussions you had with your client.

1 Agreement, were you familiar, sir, with the
2 Global Settlement Agreement?

3 A. Yes, I was.

4 Q. Were you familiar with what subjects that Global
5 Settlement Agreement applied to?

6 A. Yes.

7 Q. What were those subjects that it applied to?

8 A. Well, at the time I was very familiar with it,
9 even though it had been a few years, but today,
10 sitting here today, I could only try to remember.
11 Interest rates, 800 megahertz radio, and a
12 gentleman's agreement, the Letter of Intent to
13 consummate these transactions.

14 Q. And was that Global Settlement Agreement, sir,
15 something that was reached in conjunction with
16 the Feikens case?

17 A. Yes.

18 Q. Were you part of those negotiations in front of
19 Judge Feikens -- or might not have been in front
20 of him, but under the control of Judge Feikens
21 that led to that Global Settlement Agreement?

22 A. Yes.

23 Q. And as a result of that Global Settlement
24 Agreement, certain actions were applied to the
25 pricing of this acquisition agreement; is that

1 correct?

2 A. One of the issues addressed in the Global
3 Settlement Agreement was carried forward as a
4 credit on the purchase price.

5 Q. Okay. And which one do you believe that was?

6 A. That was the roughly \$17 million interest rate
7 dispute resolution.

8 Q. So the \$17 million that I've seen on that
9 sheet --

10 A. Yes.

11 Q. -- and now that you've seen is for that interest
12 rate dispute resolution, correct?

13 A. Correct.

14 Q. Thank you.

15 (Mr. Ruegger not present at 4:18
16 p.m.)

17 MARKED FOR IDENTIFICATION:

18 DEPOSITION EXHIBIT 12

19 4:18 p.m.

20 BY MR. ADDIS:

21 Q. Sir, I'm showing you what has been now marked as
22 Exhibit 12, and I believe that that is from that
23 agreement that we talked about, the Global
24 Settlement Agreement. What I mean is what is in
25 there under the term "global settlement," about

1 three-quarters of the way down, says, as you can
2 see, \$17,050,000, correct?

3 A. I see that, yes.

4 Q. Yes. And that is a recording, so to speak -- a
5 written recording of what you just testified to,
6 as the settlement money for the interest rate
7 dispute, correct?

8 A. That's correct.

9 Q. And that's what that reflects?

10 A. That's correct.

11 Q. Thank you. When did you first become aware of an
12 investigation into Mr. Kilpatrick, Ferguson
13 and/or Mercado?

14 A. You know, I really don't remember when I first
15 heard about it. Like I said, it was just stuff I
16 heard on the street. When it happened, I really
17 couldn't tell you.

18 Q. Were you ever contacted by either the Department
19 of Justice, U.S. Attorney's Office, the FBI or
20 anybody regarding any knowledge you might have of
21 the operations of DWSD?

22 A. No.

23 Q. And to this day you have not been?

24 A. I have not been.

25 Q. Did any of the employees of the city -- of DWSD

CERTIFICATE OF NOTARY

STATE OF MICHIGAN)
) SS
COUNTY OF MACOMB)

I, MELINDA S. MOORE, certify that this
deposition was taken before me on the date
hereinbefore set forth; that the foregoing
questions and answers were recorded by me
stenographically and reduced to computer
transcription; that this is a true, full and
correct transcript of my stenographic notes so
taken; and that I am not related to, nor of
counsel to, either party nor interested in the
event of this cause.



Melinda S. Moore

MELINDA S. MOORE, CSR-2258

Notary Public,

Macomb County, Michigan

My Commission expires: September 6, 2016